IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2598 of 2001

to

FIRST APPEALNo 2602 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SPECIAL LAND ACQUISITION OFFICER

Versus

AMRUTBHAI CHUNILAL

Appearance:

MR AD OZA, GP, for Petitioners

MR PV NANAVATI WITH MR DEVENDRA PATEL for Respondents

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 18/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

Admit, service of notice is waived by learned Advocate Mr. P.V.Nanavati with Mr. Devendra Patel for the respondents.

In this group of five appeals, under section 54 of the Land Acquisition Act, 1894 (Act), common questions are involved and therefore, upon joint request, they are being disposed of by this common judgment.

The appellants have challenged the judgment and award recorded by 2nd Extra Assistant Judge and Special Judge (LAR), Ahmedabad (Rural), Mirzapur, in Land Acquisition Reference Nos.652 and 125, 127, 128 and 129 of 1991, dated 3.12.99, whereby, the reference Court, partly allowed, the references and held that the claimants are entitled to get a sum of Rs.52 per sq. mtr. for their acquired lands as additional compensation over and above the compensation already awarded by the Land Acquisition Officer, together with 30 per cent solatium and running interest at the rate of 9 per cent per annum for the period of one year from the date of taking over possession of the acquired lands, and thereafter, at the rate of 15 per cent per annum till the entire amount is fully paid or deposited.

A few relevant facts, may be stated, at this stage, giving rise to this group of appeals. The Executive Engineer, Narmada Project, Ahmedabad, had proposed by his letter to acquire the following lands of village Dantali, Tal: & Dist: Gandhinagar, for the purpose of construction of Narmada Project main canal:

Sr.No.	L.A.Case No.	Block No.	Area in sq. mtr.
1.	652/91	533	1618
2.	125/91	517/A	1920
		517/C	0809
3.	127/91	514	0352
4.	128/91	550	4945
5.	129/91	543	0464

The notification under section 4(1) of the Act was published in the Government Gazette on 2.1.86 while notification under section 6(1) was published on 29.1.87. The Special Land Acquisition Officer fixed the market

price of the lands at the rate of Rs.2.50 per sq. mtr. for the agricultural land by passing award dated 31.1.89. In the land references, the appellant No.1 filed written statement at Ex.9 whereas, appellant No.2 filed written statement at Ex.13. Common defence was raised and it was, inter alia, contended that the Land Acquisition Officer has declared his award on 31.1.89 and fixed compensation at the rate of Rs.2.50 per sq. mtr. for the agricultural land after taking into account the location and all other facts and circumstances of the case and the provisions of section 23 of the Land Acquisition Act. On behalf of the respondents, one Amrutlal Chunilal was examined at Ex.40. His evidence was relied on by the reference Court. The sale instances were cited and relied on by the claimants. The reference Court placed reliance on the awards in respect of agricultural lands adjoining to the acquired lands of the original claimants. This group of five matters could not be taken up along with another group of 11 matters which was decided on 15.6.2001, on account of application for condonation of delay. Otherwise, they formed part of a group arising out of same notification, same area, same issues and against same original opponents.

In the earlier group of 11 matters, being First Appeal No.2147 to 2157/2001, decided on 15.6.2001, this Court (Coram: J.N.Bhatt & J.R.Vora, JJ) extensively considered the oral as well as the documentary evidence and the relevant proposition of case law and after having considered, this Court has reached to the conclusion that an additional amount of Rs.52 awarded by the Reference Court is quite justified and requires no interference in exercise of appellate powers under section 54 of the Act. In our opinion, and upon joint request made by the learned advocates appearing for the parties, again same reasons need not be articulated, since in the group decided 15.6.2001, this Court has, elaborately dealt with the issues. Therefore, this group of five matters is, squarely, covered by the decision of this Court in First Appeal No.2147 to 2157 of 2001. We, therefore, do not propose to reiterate and repeat detailed reasons and analyse the evidence.

As regards the contention of the learned Government Pleader that the reference Court has committed error in not deducting 5 per cent as Government share in respect of new tenure land, the learned advocate for the respondents has fairly stated that in case of new tenure land, he would not object the deduction of 5 per cent share of the Government. Therefore, in case of new tenure land, 5 per cent of the amount of compensation

shall be deducted as compensation to the Government, in view of the concession and frank statement made on behalf of the respondents-original-claimatns. However, it will have to be verified by the authorities concerned as to whether the acquired land happened to be new tenure land or not. As clarified in the earlier group of 11 first appeals, for abundant precaution, it is clarified that the amount of interest shall be paid on the amount of compensation under section 23(1) as no interest is payable on the amount of solatium and additional amount of compensation under section 23(1)(a) of the Act.

With the above observations, this group of appeals is partly, allowed to the aforesaid extent, with no order as to costs.

(J.N.Bhatt, J.)

(Akshay H. Mehta, J.)
(vjn)